Case 3:08-cv-03910-VRW	Document 1	F 12008	Page 1 of 21
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	f". R//	AUG 1 5 2008	5, 10
PETITION FOR A WRIT OF	No CLE HABEAS CORPU	IN ES DA MERSON	IN STATE CUSTODY
$\mathcal{O}_{\mathcal{A}}$	•	OF CALIFORNIA	
Name Kidge	La	rry	LAR
(Last)		(First)	(Initial)
Prisoner Number V. 7	7540	:	:
Institutional Address $oldsymbol{1}$	lew folsom	St Prison.P.	0.Box 29-0066
		=======================================	=======================================
UN	TED STATES	essessessessess District court	2010
UN]	(DISTRICT COURT	3910
	HERN DISTRIC	T OF CALIFORNIA	V_{R}
NORT LATTY D. Ridge J	HERN DISTRIC	T OF CALIFORNIA	NR 1482208
	HERN DISTRIC	se No. (Alloo To be provided	58) 148220A by the clerk of
NORT LATTY D. Ridge J	HERN DISTRIC	se No. (Alloo To be provided	58) 148220A by the clerk of
NORT D. Ridge J. Full Name of Petitioner	HERN DISTRIC	se No. (RI\OO) To be provided ourt)	TREST 148220A by the clerk of
NORT D. Ridge J. Full Name of Petitioner	HERN DISTRIC	se No. (Alloo To be provided	TREST 148220A by the clerk of

Read Comments Carefully Before Filling In

When and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

Who to Name as Respondent

You must name the person in whose actual custody you are. This usually means the Warden or jailor. Do not name the State of California, a city, a county or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the state judgment against which you seek relief but may be subject to such custody in the future (e.g., detainers), you must name the person in whose custody you are now <u>and</u> the Attorney General of the state in which the judgment you seek to attack was entered.

A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE
1. What sentence are you challenging in this petition?
(a) Name and location of court that imposed sentence (for example; Alameda County Superior Court, Oakland):
Alameda County Superior Court Oakland Location
(b) Case number, if known <u>fill0058</u>
(c) Date and terms of sentence 52 years 8 months
(d) Are you now in custody serving this term? (Custody means being in jail, on parole or probation, etc.) Yes X No
Where? New folsom State Prison Pollo Box 29006 Represa CA, 9567/ (Name of Institution) (Address)
2. For what crime were you given this sentence? (If your petition challenges a sentence for more than one crime, list each crime separately using Penal Code numbers if known. If you are challenging more than one sentence, you should file a different petition for each sentence.)
Second Dagree murder
3. Did you have any of the following?
Arraignment: Yes X No Freliminary Hearing: Yes X No
Motion to Suppress: Yes X No

4.	How did you plead?
Guilty _	Not Guilty X Nolo Contendere
Any other	r plea (specify)
5.	If you went to trial, what kind of trial did you have?
Jury 💢	_ Judge alone Judge alone on a transcript
6.	Did you testify at your trial? Yes No \overline{X}
7.	Did you have an attorney at the following proceedings:
(a) (b) (c) (d) (e) (f) (g)	Arraignment Yes No Preliminary hearing Yes X No Time of plea Yes X No Trial Yes X No Sentencing Yes X No Appeal Yes X No Other post-conviction proceeding Yes No
8.	Did you appeal your conviction? Yes X No
7	(a) If you did, to what court(s) did you appeal?
Court of	Appeal Yes X No 2005 AFFirmed (Year) (Result)
Supreme C Californí	Court of
	court Yes No (Year) (Result)
that you	(b) If you appealed, were the grounds the same as those are raising in this petition? Yes No _X
	(c) Was there an opinion? Yes No
	(d) Did you seek permission to file a late appeal under a)? Yes No
	If you did, give the name of the court and the result:
· 9.	Other than appeals, have you previously filed any petitions,

^{9.} Other than appeals, have you previously filed any petitions applications or motions with respect to this conviction in any court, state or federal? Yes. No X

Note: If you previously filed a petition for a writ of habeas corpus in federal court that challenged the same conviction you are challenging now and if that petition was denied or dismissed with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit for an order authorizing the district court to consider this petition. You may not file a second or subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28 U.S.C. § 2244(b).

(a) If you sought relief in any proceeding other than an appeal, answer the following questions for each proceeding. Attach extra paper if you need more space.

I.	Name of Court	
	Type of Proceeding	
	Grounds raised (Be brief but specific):	
	a	
	b	
	C	
	d	
	Result Date of Result	
II.	Name of Court	
	Type of Proceeding	
	Grounds raised (Be brief but specific):	• •
	a	
	b	
	c	
	d	
	Result Date of Result	٠.,
III.	Name of Court	
	Type of Proceeding	
	Grounds raised (Be .brief but specific):	
	a	

Claim Three: Review's APPROPRINTE IN tHE inlake of Counting Ham V. CALIFORNIA (2007) 1275. (+.856.7) DECIDE WHETHER The ImPosition of Consecutive Sentences Violated BLAKELY V. WASHINGTON (2004) 542 U.S. 276 AND APPELLANTS FLUERAL CONSTITUTIONAL RIGHTS TO DIE PROCESS AND A JULY TRIAL			
Supporting Facts: These statements show that the court relied on facts which were not proved			
o A jury beyond a reasonable doubt, in Violation of Blakely V-Washington (2004)542 U.S. 296,			
1245.C.T. 2531. Accordingly the Court's imposition of Consecutive terms must be			
reversed.			
If any of these grounds was not previously presented to any other court, state briefly which grounds were not presented and why:			
List, by name and citation only, any cases that you think are close factually to yours so that they are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning of these cases: T Down Know a Cases that's Similar to the			
Rielge Cases			
Do you have an attorney for this petition? Yes No X _ If you do, give the name and address of your attorney:			
WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in this proceeding. I verify under penalty of perjury that the foregoing is true and correct. Executed on 7-10-08 Date Date Signature of Petitioner			
·			

Perjury testimony by witness Ronnie withite the court admitted Prejudicial hears au that Could Not be Effectively Cross examined by the defense. (OR Evidence that was admissible under stat law but which devied Petitioner the right to Confrontation). Confrontation of witness [6]

Witness Ronnie Wilhite direct examination by D.D.A. Elgin lowe on Page 319 (CTI-15) It Now explains Witness Ronnie Wilhite Seen a gun Now This is D.D.A. Elgin lowes Key Witness if Wilhite did see a gun and the Van Once He Had got inside the Van. Why Prosecotor lowe did not Correct his Witness for the statement on January 20,2005 With Cindu Hail. It could not have been an mistake see Page 4(CT 1-11) of Statements On January 20,05 Witness Explains there was no Gun When Witness first Got inside the Van.

Federal Court due Process Clause was Violated by the Prosecutor's KNOWING use of Perjury. Perjury Criminal offense of making false statements under Oath or Affirmation; At Common law, Only a willful and Corrupt Sworn Statement made without Sincere belief in its truth, and made in a judicial Proceeding regarding a material matter, was Perjury.

8 ON JANUARY 20.05 inspector Cindy Hall, With the Alameda County District Attorney's Office, and Deputy District Attorey Elgin Lowe. Were at the Onkland Police Department interview room on the 200 floor. Seated there with them, Key Witness Ronnie. During witness statement On Prae 4, (CT3-10) Lowe asked Witness, When you first Got in the Van that Ridge had When he came to his Uncles house. During Ronnie Wilhite's redirect examination by Elgin Lowe asked the witness Did I Come and talk to you With my investigator & indy Hail ? Withess states, Yes. On Page 381 (CT5-12), D.D. H. Lowe go further and asks the Witness, were you being truthful at that Point. Witness Stated Yes. Mr. Lowe referring to January 20,2005 Statement With Cindy Hall . Witness were under Oath during redirect examination Proceeding, during the direct examination on Page 319, (CT 1-15) D.D.A. Lowe asked witness under Oath. Now Once you got inside the Van, did you see any Weapons inside the VAN. Witness States, Yessir. Facts Shows, prosecutor D.D.A Lowe had aid his Key witness in perjury, and perjury on Elgin Louse on behalf he knew his witness committed Perjury for my Conviction. Petitioners Conviction was obtained as a result of the Prosecutors misstatment of fact.

D.D.A EIgin Lowe Argue to the Jury that larry Ridge had intent to Aiding and abetting Ridge intent was he manner Arrived at Ray Gilbert home with a loaded gun and his Van. But D.A. lowe Key Witness Stated January 20.05. Inspector Cindy Hall THRE there was No gun when he first got and side Ridge Van. On Page 1297 D.A. lowe Didnot tell the Jury that has key whees Ronnie withite told him and Cindy that there was no gun when first gotten and the Van and filled to Correct his witness See Pages 379-382 Pages 306-3440

Appeal Counsel was ineffective in Violation of the Sixth Amendment Constitution Right.

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Appeal Counsel Ineffective of Assistance of Counsel on Appeal Mr. Gardner didn't argue mr. Ridge is Not a aider and abettor. The Prosecution offered No substantial evidence of Mr. Ridge had aid in a comission of the Crime See Page 1316 (CT 10-28) 1317 (CT 1-28) 1318 (CT 1-28) 1319 (CT 1-20) There's no evidence mr. Ridge with the intent or purpose of committing or encouraging or facilitating the Commission of the Crime. No evidence merely Assenting to or aiding or assisting in the Commission of the Crimer Without Knowledge of a crime is Not Criminal. Thus a person Who assents to or aids or assists in the Commission of a crime without that Knowledge, and with Out intent or purpose, is not an accomplice in the Commission of that Crime "On January 20 in Rounie Willite Statement With inspector Cindy hall and D.D.A. Elgin Lowe, Ronnie Wilhite Stated ON Page 4. (CT 4-10) "When he first got in side the VAN there was "No" guns". Further to the Point in Wilhite's statement he baid there was Never any talking about Shooting or Killing Someone. Mere Presence at the Scene of a Crime which does not itself assit the Commission of the Crime, does not amount to aiding and abetting the Commission of the Crime. The instructions make it clear Where that leaves you, of Course there's NO Criminal liability.

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Trial Counsel Michael Berger Inflective Assistance of Counsel. Petitioner Conviction was obtained as a result of his Counsel Knowing use of Perjured testimony Inffective Assistance of Counsel [6].

Fair Trial

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Petitioner Counsel ma Berger didnot argue that On January 20,05 Elow lowe and his inspector Cindy Hall had gotten an statement from witness Ronnie Wilhite On Page 4 (CT3-10) Witness Ronnie Wilhite Stated "That there was Never a gun And the Van When Wilhite first gotten And the VAN. FAthere more there was Never a gun found and the Van. And mr. lowe Redirect Examination Page 381 (CT 11-12) Witness Wilhite Stated "He was being truthful" D.D.A. Eloin Lowe is refferring to Statement Witness gave on the day of 1-20-05. D. D. A. Elain Lowe Knowing use of A Pejury Statement to obtaine Petitioners Conviction. On Page 1283 (CT 15.19). IN Mr Barger Was Not Prepare to take take the Ridge Case to trial he was already assinged Out to trial in a co. Defendant Case See Reporters Transcript of Proceedings On monday November 22, 2004 On Page 1 (CT 1-28) This shows mr Berger Was assinged to a three defendant Murder Case See Page 2 (CT 4-28) Mr Berger Objecting to ANU Continuance Past the 60th Day See Parie 3-4 (CT 1-28). Mr. Berger Didnit SubPoena Witness Romnie Wilhite When Witness Was

1 SubJect to Recall See Page 393 (CT 17-28) Trial 2 Counsel Michael Berger Was Inffective Aissistance 3 of Counsel. Prosecution Misconduct. Violating Petitioner fourteeth amendment.

3 The Prosecutor was in Violation by Violatina my fouteeth amendment. By the due Process clause by which the Prosecutor D.D.A. Elain Lowe repeatedly argur in the March 22,2005 Proceedings Page 1304, lines (CT1-28) Say that Ridge had the intended for someone to die out there, and with such intent he aided and abetted, by giving up his VAN. And SAID LADIES AND GENTLEMEN. I Could Never reiterate enough this tell you all you need to Know about intent, because He!! Had!! Own!! 38!! It! Only! Had! three! Bullets!! Now D.D.A. Elain Lowe asked witness On the redirect examination Ronnie Wilhite On Page , 381 lines (CT 1-12) Did I come and talk to you with my invest igator Cindy Hall witness state Yes. D.A. Flgin lowe asked the witness were you being truthful at that point? Witness States Yes now during the interview that Was taken on January 20,2005 by D.A. Elgin Lowe and his investigator Cindy Hallon Page 4, line (CT3-4) When you first got in the Vanidid you see any guns? Witness States No. Now while under direct examinat-ION by D.A. Elgin Lowe On Page 319. lines (CT 1-23) D.A. Elgin lowe ask's the witness Ronnie withite Once you got inside the Van did you see any weapons inside the Van witness states "Yessir" According to the Prosecution own evidence and fact show's that the 28 Witness committed Periury and D.A. Elgin lowe willfully

Prosecuted misfacts of evidence by repeating false Perjury testimony of the Prosecution own witness doing the Proceedings. the direct examination and use the state-Ment that was made ON JANUARY 20.2005 that was by him self D.A. Elgin Lowe and his investigator Cindy Hall, and also he was using the Same False Statement and testimony in his closing argument to Show Ridge's intent to commit a crime. the Prosecution factual erroneous and angry intemperate that 10 lit Prevent the trial From being fair. And in doing this the Prosecution Jeopardize the defendants the right to a fair trial. Alos this intrude on mis-Carriage of Justice and reversal is require Where the appeallate court is seriously doubtful that without Committed errors the result in the case would have been the same, the error may require a reversal on the grounds of a miscarriage of Justice.

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Abuse of Discretion by trial Court Prosecution D.A. Elgin Lowe Violation of Petitioner Due Process.

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By Misrepresentation of the facts of evidence by which Was given by Prosecution Witness Rohnie Wilhite. During the statement that was taken Place at the Oakland Police Station by D.D.A. Lowe And inspector Cindy Hall ON January 20,2005 On the Second Floor. D.D.A. Lowe ask Witness, when you first got in the VAN did you See any guns? Witness states "NO" Page 4. (CT3) Now doing the Proceeding Mr. D.D.A. Lowe asked witness on Page 319. (CT 1-28). Now ONCE YOU got inside the VAN did you see and weapons inside the VAN Witness Stated Yes. Now D.A. Lowe tell the court Only the Version that the Witness is telling Now the Witness Never told D.A. Lowe that in his statement that was taken on JANUARY 20,2005 Page 4. (CT3) this shows that the Prosecution is abusing his Discretion by allowing his witness to commit Perjury while under Oath in A IEGAl Proceeding. And if you will Please look at Page 326. (ct 1-28) Page 327. (ct 1-28) and, Page 328. (ct 1-12) 404 Will See Where the Witness Ronnie Wilhite is given a Consistency of false testimony to the Prosecutor and the trial court Judge without any corrections done by either party. Now if you will look at Page 328. (CT 13-28) and Page 329.(CTI-13). you will see where the witness 28 | tells the courts a totally different Version in the

Same Proceeding from the Prosecution in this case. 22 23

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Which the Prosecution has abused his discretion Once Again by Not Correcting the witness and allowing him to commit Perjury, the Prosecution must bring forth any evidence that will lead to the Next Party innocence. The Prosecution deliberately abused his discretion to gain the upper hand in Proving his case. And use what the witness told the courts and not D.A. Elgin Lowe himself. In Fact the witness told the Prosecutor that when ask? did you actually see him Pick up the rifle before he standed Shooting the rifle withess state "No". D.A. Lowe goes to Bay. Was he driving with the rifle the 30 minutes after he Picked it up or was he holding it. Witness States "No" Witness also states that he was looking straight the whole time of the event taken Place, and did Not See Donald Jones do Anything. In fact the witness SAY'S I didn't See Nothing And the Only thing he SAId that he seen was 29th street. this show that Both Donald Jones and Larry Ridge also would have been acquitted or a New trial on lesser Charges.

Trial Court Violation of Canons law

The trial Court Judge Willfully Violated the Canons 1,2a, and 5, by the requirements at trial Court engaged in a Facts Conversation with the witness Ronnie withite while the Prosecutor was in the middle of its direct examination with the witness to Prove his burden of Proof. After the Prosecutor could Not Get a Conviction. See Page 326. (CT 1-28) See Page 327. (CT 1-28) Also Page 328 (CTI-12) of the Prosecution direct examination was Not made beyond a reasonable doubt. On Page 328 (cT 13-28) of the direct examination you will find that the trial Court abuse it's Obligation as a Public effectual an act with in a Judicial 13 | Capacity, Noting that, in this context, was unsudicial Conduct 14 Committed in bad faith, by a Judge Not then acting in a Judicial Capacity. A culpable mental State beyond mere Negligence and Consisting of either Knowing or not caring that the conduct being undertaken is unjudicial and Perjudicial to Public esteem. (Broadman V. Commission On Jud-Icial Performance (1998) 18 Cal. 4th 1079, 1093) The trail Court did not act in a Judicial CAPACITY When the witness committed PerJury in a legal Proceeding while under oath of a SWORN Statement of a direct examination. And there is evidence that the Withess gave False Statement to the

Police that made AttemPts to do a investigation. When the Police was trying to make an attempt to do his Investigation by doing a Gun shot re-Sidue test the witness interfered with the test, by try to conceal evidence by wifen his hand off before the test was taken. And Pages 383. lines (CT 1-13) Will Show that. I'm the cross examination of trial Counsel Cross examination of the witness Also Pages 365 to 383 of the cross examination on All those Pages of 365 to 383 lines (CT 1-28) Will Show the Consistent of false statements and testimony. You will come to find also ON PAGES 375, lines (CTI-11) of the Cross examination, where mr. Peretti ask the Witness Ronnie withite. Donald Jones was the driver and the shooter right?" Put it all on him right? Is That right? witness states. Yes. You will also see on redirect examination by D.D.A. EIGIN lowe Where he ask the witness do he remember Him. D.A. ElGIN Lowe and his investigator cindy Hall Coming to Speak to him at the Orkland Police DEAPARTMENT IN the interview room. Witness Stated. Yes" D.A. EIGIN Lowe Goes OH and ask the witness were You being truthful at that Point, Witness States, Yes: All this can be found on Pages 381. lines (CT2-12) of the redirect examination by D.A. EIGIN lowe- Now this statement was done on the 20 of JANUARY IN 2005. Now in this same state-27 Ment Pages 4. lines (CT3-4) D.A. Lowe ask the

witness. When You First Got in the VAN, did You See any guns? Witness States "No" Now in D.A. Elgin Lowe direct examination D.A. ElGIN lowe ask the Withess, Now Once You Got inside the VAN did You See and T weapons inside the VAN, witness stated. "Yes". D.A. Eigin Loweask the witness what did You see? Witness States, "a Gun" D.A. Lowe ask What kind of a Gun did You see? witness states, à little One" D.A. Lowe ask the witness. A little One. When You SAY a little, do you know the difference between a revolver and A Pistol? Witness states Yes direct examination Pages 319, lives (CT 1-23) this All Goes to the Consistance of the false statement And testimony Given by Ronnie Wilhite And Committed PerJury even when being Question by the Prosecution by Given false statements of testimony in a legal Proceeding. Now on Page 384. lines (cT-2) Where Mr. Berger ASK for SubJect to recall. Now Pages 393 lines (CT 14-16) of the further recross examination. Defense attorney Gene G. Perettiask the trial court is the witness subJect to recall Now on Pages 393. lines (CT 17-24) Will Show that the trial court had reason to believe that the witness Ronnie withite was infact given false statements and testimony as well by excusing the witness to subject to recall base on his Assump. tion of the defense aftorney impeaching the witness And let the tripl Court Adverse impact of the Judge's

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misconduct on A Judicial system had been substant-ial JeoPardizing the Parties right to a fair trial. And in one case, Contributing to the reversalofa criminal Conviction based on Judge mistreatment of those appearing before them AND they inability to control there Judicial Capacity. Also the trail Court Abuse it's discretion by Not Acting with in A Judicial Capacity when the witness tells the defense attorney in his cross examinations that the Prosecutor D.A. Elgin Low told him that he would not be charged with anything if he testify. See Page 378, lines (CT1-28) Will show the trial court acted in bad faith of Judgment beyond his CAPACITY to grant both Parties the right to a fair trial. And as a defendant and any Jury trial I have a right to a fair trial.

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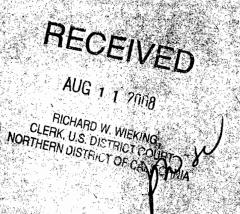
Since february 13,2008. Petitioner Larry D. Ridge had filed an State Petition of Habeas Corpus. With Alameda County Superior Court. Petitioner want action on the federal Petition to be Stayed Pending Exhaustion of State remedies.

PROOF OF SERVICE

(C.C.P. §§1013(a); 2015.5; 28 U.S.C. §1746)

I, Jam leife fr., an and I (am) Cam not) a party to the within car	n over the age of eighteen (18) years, use of action. My address is:		
New folsom State fac c -2 Room 11 P.O. Box 29-0066 Represe, CA 91	Hupper		
On, July 9, 2008, Petition for writ of Habeas Corpus, Proof of Service			
on the below named individual(s) by depos the United State mail in Represa, Californi addressed as follows:	_		
Morthern District of California 450 Golden Gate AVE, SAN Franciso, CA. 94102	2 California Attorney General 450 Colden Gate Ave P.O. Box 36055 SAN Franciso, C.A. 94102		
the laws of the State of California that the fo			
Executed this July day of 9+4 Prison - Sacramento, Represa, California.			
(Signature)	L, Z.		





District Court in District of California loiden Cate AVE unciso; CA 94102

<u> Ալիլիսի իրի անգիրի իրի անձան իրի անձին իր</u>

Mr. Larry D. Ridge Tr New folsom State Prison Fac. C. T. Room (203) P.O. Box 29-0066 Repr**e**sa ca 95671-0066

Legal Mail